

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

ORIGINAL

In the Matter of the License of:)
)
JUDITH A. LEISTER,)
License No. CRA-26,)
)
Respondent.)

Case Nos. REA-L3-02A-98-029
REA-L1A-02A-00-012

**STIPULATION AND
CONSENT ORDER**

REA\Leister\P2086\wa

WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Judith A. Leister (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of real estate appraisers in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

2. Respondent Judith A. Leister is a licensee of the Idaho State Board of Real Estate Appraisers and holds License No. CRA-26 to practice real estate appraisals in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code.

3. Pursuant to Idaho Code § 54-4104(13), Respondent, as a state certified residential real estate appraiser, is restricted to appraising residential properties of four (4) or less units without regard to transaction value or complexity.

4. Appraisals in the State of Idaho must comply with the minimum standards set forth in the Uniform Standards of Professional Appraisal Practices (“USPAP”).

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5. On or about May 22, 1996, Respondent prepared an appraisal for the real property located at 1529 S. Allante Place in Boise, Idaho (hereinafter “Subject Property #1”).

6. The Board alleges that the appraisal report for Subject Property #1 failed to meet the following requirements of USPAP Standards (1996):

a. Respondent’s workfile does not contain sufficient information to support the findings and conclusions contained in the report, in violation of the Ethics Provision, Recordkeeping;

b. The report failed to contain an adequate analysis of land sales and support for the land value in the cost approach, in violation of Standards Rules 1-4(a), 2-1(b) and 2-2(b)(viii);

c. Although the subject is proposed new construction, the report failed to contain Marshall and Swift calculations or specifications and readable plans, making the value unsupportable in the cost approach, in violation of Standards Rules 1-4(b)(i) and (h), 2-1(b) and 2-2(b)(viii);

d. No evidence was presented in the report to indicate that sales were properly analyzed and confirmed; for example, the adjustment for sod and sprinkler was minimal; Respondent stated that porches do contribute to value but failed to mention the comparables’ porches in the report; and comparable #3 is superior in quality to the subject but no quality adjustment was made, all in violation of Standards Rules 1-4(b), 2-1(a) and (b), and 2-2(b)(viii); and

e. No analysis is presented in the report as to the sales listing or the sales price of the property listed in the HUD application for property appraisal and

commitment, both part of the workfile, in violation of Standards Rules 1-5(a) and 2-2(b)(viii).

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7. On or about August 19, 1998, Respondent prepared an appraisal for the real property located at 291 Wisdom Road in McCall, Idaho (hereinafter "Subject Property #2").

8. The highest and best use of Subject Property #2 is residential development and an interim use of agriculture, which is beyond the scope of Respondent's license. The Board alleges that Respondent's acceptance of the assignment and preparation of the appraisal report for Subject Property #2 constitutes a violation of Idaho Code § 54-4104(13), USPAP (1998) Competency Provision, and Standards Rules 1-1(a), (b) and (c).

9. The Board alleges that the appraisal report for Subject Property #2 further failed to meet the following requirements of USPAP Standards (1998):

a. The report failed to correctly invoke the departure provision or explain that it was a limited appraisal, in violation of the Ethics Provision;

b. The report failed to adequately identify the real property, consider the purpose and intended use of the appraisal, or consider the extent of the data collection process, all in violation of Standards Rule 1-2(a);

c. The report failed to consider the effect on use and value of the following factors: existing land use regulations, reasonably probable modifications of such land use regulations, economic demand, the physical adaptability of the real estate, market area trends, and the highest and best use of the real estate, in violation of Standards Rule 1-3(a);

d. The report failed to discuss the contribution of any improvements, in violation of Standards Rule 1-3(b);

e. The report failed to value the site by the appropriate appraisal method or technique, in violation of Standards Rule 1-4(a);

f. Respondent failed to collect, verify, analyze and reconcile such comparable sales data, adequately identified and described, as are available to indicate a value conclusion, in violation of Standards Rule 1-4(b)(iii);

g. The report failed to consider and analyze a previous listing for sale, in violation of Standards Rule 1-5;

h. The report failed to contain sufficient information to enable the persons who were expected to receive or rely on the report to understand it properly and failed to clearly and accurately set forth the appraisal in a manner that was not misleading, in violation of Standards Rules 2-1(a) and (b);

h. The report failed to comply with the reporting requirements for either a self-contained appraisal report, summary appraisal report, or restricted appraisal report, in violation of Standards Rule 2-2; and

i. Respondent failed to sign the Statement of Limiting Conditions and Appraiser's Certification on the copy received by the client, in violation of Standards Rule 2-3.

10. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of real estate appraisals, specifically Idaho Code § 54-4104(14) and IDAPA 24.18.01.350 and 24.18.01.700. Violations of these laws and rules would constitute grounds for disciplinary action against Respondent's license to practice real estate appraisals in the State of Idaho.

11. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby agrees to the discipline against her license as set forth in Section C below.

B.

I, Judith A. Leister, by affixing my signature hereto, acknowledge that:

1. I have read the allegations pending before the Board, as stated above in section A. I further understand that these allegations, if proven, constitute cause for

disciplinary action upon my license to practice real estate appraisals in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraisals in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process as long as the terms of discipline set forth below are accepted by the Board. Should the Board decline to accept the discipline set forth below then the matter will proceed to an evidentiary hearing.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Respondent, Judith A. Leister, License No. CRA-26, hereby agrees to accept a letter of reprimand for the above-alleged violations.

2. Respondent shall pay to the Board an administrative fine in the amount of Two Thousand Dollars (\$2,000.00) within thirty (30) days of the entry of the Board's Order.

3. Respondent shall pay investigative costs and attorney fees in the amount of Five Hundred and No/100 Dollars (\$500.00) within thirty (30) days of the entry of the Board's Order.

4. Respondent shall take a 15-unit USPAP course within twelve months (12) months from the date of entry of the Board's Order and shall take and pass any examinations given at the conclusion of the course. Respondent shall submit proof of attendance and proof that she passed any given examinations within 30 days of

attendance. If no examinations were given at the conclusion of the class, Respondent shall submit a letter from the course instructor stating that no examinations were given.

5. Respondent shall not prepare any appraisal which is outside of the scope of her licensure. If Respondent is unsure whether an appraisal is within the scope of her licensure, Respondent shall immediately contact a Board member for assistance.

6. Respondent is placed on a six (6) month probation, retroactive to August 19, 1998.

7. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of real estate appraisals in the State of Idaho.

8. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

9. In the event Respondent should leave Idaho for three (3) continuous months, or to reside or practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of time spent outside Idaho will not apply to the reduction of this period or excuse compliance with the terms of this Stipulation.

10. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information within a reasonable time after a request is made for such documents or information.

11. All costs associated with compliance with the terms of this stipulation are the sole responsibility of Respondent.

12. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

13. Notwithstanding anything in this Stipulation and Consent Order to the contrary, the effective date for this disciplinary action is August 19, 1998.

D.

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal hearing will be held.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-4107(1)(d). If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the

evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

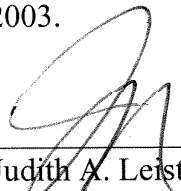
c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. The Board shall have the right to make full disclosure of this Stipulation and Consent Order and the underlying allegations relating hereto to any state, agency or individual requesting information subject to any applicable provisions of the Idaho Public Records Act, Idaho Code §§ 9-337-50.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 10th day of March, 2003.

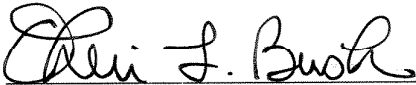


Judith A. Leister
Respondent

I concur in this stipulation and order.

DATED this 14th day of March, 2003.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

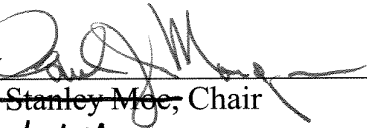
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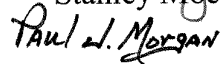
Cheri L. Bush
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-4106, the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 26 day of March, 2003. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF REAL ESTATE APPRAISERS

By 

~~Stanley Moe~~, Chair

Paul L. Morgan

CERTIFICATE OF SERVICE

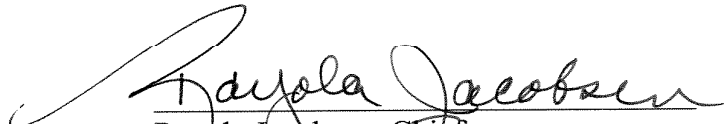
I HEREBY CERTIFY that on this 31st day of March, 2003, I caused to be served a true and correct copy of the foregoing by the following method to:

Judith A. Leister
C/O Timoth Tyree
Hawley Troxell
P.O. Box 1617
Boise, ID 83701-1617

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Cheri L. Bush
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Rayola Jacobsen, Chief
Bureau of Occupational Licenses